

**ORDINANCE 2011-986**

**AN ORDINANCE OF THE CITY OF WAITSBURG, WASHINGTON, AMENDING  
TITLE 9 CHAPTER 2 REGARDING UPDATES TO THE MUNICIPAL CODE  
CONCERNING SOLID WASTE MANAGEMENT**

**WHEREAS**, updates are needed to portions of the City’s Municipal Code in order to update provisions concerning solid waste management; and

**WHEREAS**, it is necessary to amend certain portions of the Code to provide for certain procedural changes as set forth above:

**NOW THEREFORE**, the City Council of the City of Waitsburg does ordain as follows:

A. Chapter 2 of Title 9 of the Waitsburg Municipal Code is hereby revised in its entirety as follows:

Chapter 2 - Solid Waste

Sections:

- 9.02.010 Applicability.
- 9.02.020 Intent.
- 9.02.030 Definitions.
- 9.02.040 Mandatory garbage service.
- 9.02.050 Statutory authority adopted by reference.
- 9.02.060 Compliance required/Accumulation of wastes.
- 9.02.070 Term.
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- 9.02.340 Contractor Assistance.
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- 9.02.360 Workmen.
- 9.02.370 Company Name.
- 9.02.380 Affirmative Action Plan.
- 9.02.390 Modification.
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- 9.02.430 Improvements to City's Alleys, Etc.
- 9.02.440 Cart, Container, Etc.
- 9.02.450 Default.
- 9.02.460 City Ordinances.
- 9.02.470 State Law Regarding Annexation.
- 9.02.480 Compliance with Laws.
- 9.02.490 Billing and Collection.
- 9.02.495 Rules and regulations-City Power to Determine.
- 9.02.500 Complaints.
- 9.02.510 Notices.
- 9.02.520 Appendix A: Rates, Etc.
- 9.02.530 Appendix B: Recycling

9.02.010. Applicability. This chapter shall apply to all territory embraced within the corporate limits of the city of Waitsburg.

9.02.020. Intent. The maintenance of health and sanitation require, and it is the intention hereof, to make the collection, removal and disposal of solid waste and special wastes within the city uniform and mandatory.

9.02.030. Definitions. The following definitions shall apply:

The definitions contained in RCW 70.95.030 are incorporated by this reference.

“Garbage” means all trash use or waste matter discarded as if no further value to the owner and includes solid waste as defined in RCW 70.95; and shall include source separated recyclables. The term "garbage" excludes manure, sewage, dead animals, cleanings from catch basins or sumps, all materials defined by law as hazardous or toxic, and all other materials which under federal, state or local law or regulation are excluded from general purpose landfills.

“Garbage can” means a watertight metal or plastic container with a tight cover provided or approved by the City or its designee.

“Garbage bundle” means secure and tight bundles, none of which shall exceed five (5) feet in the longest dimension and shall not exceed two (2) feet in girth, and sixty-five (65) pounds in weight, fully enclosed in plastic bags, or boxes and able to be reasonably handled and loaded by one person onto a collection vehicle.

"Single family residential unit" means all single living unit housing, as well as duplexes, triplexes, fourplexes or mobile homes, where each living unit is supplied with a 95-gallon capacity container (or 60-gallon capacity container), with individual collections and billings and located on a public street, private drive or private road.

"Commercial establishment" or "business establishment" means property or a building or a portion thereof used in a trade, business or profession.

“Bulky waste" is large items of refuse, such as appliances, furniture, trees and stumps, and other oversize wastes.

"Collecting agency" is any agency, business or service operated to collect solid waste.

"Collector" means the person entering into a contract with the city for the collection, removal and disposal of solid waste and special wastes as provided by this chapter.

"Detachable container" is a partially mechanized self-service refuse storage container for individual or bulk use, utilizing special equipment for emptying or transporting to the disposal site.

"Disposable individual storage container" is a wet strength kraft paper or a polyethylene discardable container that is freestanding, affixed to a wall, or mounted on or in special racks or boxes with a capacity of ten or thirty-five\_ gallons.

"Container" or "reusable individual storage container" is a durable, corrosion-resistant, rodent-resistant, easily cleanable container with tight-fitting lid and equipped with suitable handles, with a capacity of thirty-two gallons or less.

"Disposal site" is the location where any final treatment, utilization, processing or disposition of solid waste occurs. (Revised Code of Washington, Section 70.95.030.) This includes, but is not limited to: Sanitary landfills, incineration, composting, dumps, and grinding, transfer stations, salvage and reclamation sites, hog feeding.

"Garbage" is all putrescible material including animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food; swill and carcasses of dead animals, except; sewage, sewage sludge, and human body wastes.

"Hazardous wastes" include, but are not limited to, explosives, pathological wastes, radioactive wastes, and chemicals which are harmful to the public health or the environment.

"Light material" is paper, plastic, cardboard, and other wastes which may be wind-transported.

"Litter" is solid waste that is scattered in a careless manner.

"Littering" means the uncontrolled and unauthorized deposit of solid waste which creates an aesthetic or public health nuisance.

"Problem wastes" are bulky wastes, dead animals, abandoned vehicles, construction and demolition wastes, industrial wastes, manure, fly ash and such other solid wastes that may take special handling.

"Premises" is a tract or parcel of land with or without habitable buildings.

"Sanitary landfill" is a method of disposing of solid waste on land without creating nuisances or hazards to public health or safety, by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day's operation or at such more frequent intervals as may be necessary.

"Solid waste" is anything solid, semi-solid, liquid, or a container of a liquid, that is unused, unproductive, or not properly utilized, or any one of the foregoing, or a combination of any of the foregoing. "Properly" means justifiable, appropriately.

"Special wastes" means special, infectious, or dangerous solid wastes requiring special handling including, but not limited to, medical wastes, explosives, radioactive materials, chemicals, herbicides and pesticides, and their containers.

#### 9.02.040. Mandatory garbage service.

All property owners and occupants of premises within the city, including all residences and businesses, are required to use the garbage collection and disposal services authorized by the city and pay the appropriate charges therefore.

A. Every residential unit within the corporate limits of the city shall be assessed at least the minimum monthly residential garbage service charge or such greater amount based upon actual usage, all as determined in accordance with Section 9.02.080 below.

B. Every commercial establishment within the corporate limits of the city shall be assessed at least the minimum monthly commercial garbage service charge or such greater amount based upon actual usage, all as determined in accordance with Section 9.02.080 below.

C. Every industry within the corporate limits of the city shall be assessed at least the minimum monthly industrial garbage service charge or such greater amount based upon actual usage, all as determined in accordance with Section 9.02.080 below.

9.02.050. Statutory authority adopted by reference. RCW Chapter 70.95, WAC Chapter 173-304, RCW Chapter 70.105, WAC Chapter 173-303, and WAC Chapter 173-350 if and when it is adopted, except the definition of "solid waste" in WAC Chapter 173-304, as any or all of the same may be hereafter adopted or amended, are adopted by this reference. Where this Chapter provides a higher or stricter standard of solid waste management than RCW and WAC, such provision(s) of this Chapter shall control.

9.02.060. Compliance required/Accumulation of wastes. It is the duty of every person in possession, charge or in control of any dwelling, flat, rooming house, apartment house, motel, trailer court, hotel, restaurant, eating place, tavern, cocktail lounge, club, hospital, nursing or rest home, school or boardinghouse; or in possession, charge or control of any shop, place of business or manufacturing establishment where solid waste and/or special wastes are created or accumulated, at all times to handle the solid waste and special wastes in compliance with all applicable laws and regulations currently in force, and as they may be hereafter enacted or adopted, or amended, including keeping or causing be to kept portable appurtenances, metal or approved cans for the deposit therein of garbage, and to deposit or cause to be deposited the same therein. Every failure thereof is unlawful, and a violation of this chapter, and for any violation of this provision by persons, in addition to subjecting the person to penalties described in Section 9.02.130, the city may request the collector to collect and remove the garbage and such person or persons shall be jointly and severally legally obligated to pay the collector according to his usual rate of charges for collection, removal and disposal.

9.02.070. Term. This Contract shall commence, September 2<sup>nd</sup>, 2011 (and shall supersede all previous contracts between October 1<sup>st</sup>, 2002 and September 1<sup>st</sup>, 2011). The initial term of the Contract will be for a ten (10) year period of time. At the end of each year of the Contract, absent notice of termination from either party, the Contract will automatically extend for one additional year. Should either party provide notice of termination as provided for hereinafter to the other party, the Contract will then terminate at the end of the contract term, i.e., at the end of the ten (10) year term of the Contract. Notice of Termination as provided for in this Section will be given after January 31<sup>st</sup>, and on or before February 28<sup>th</sup> of said year.

A. Garbage Service. During said term, CONTRACTOR shall have the sole and exclusive right to, and agrees to, collect and remove all solid waste, refuse, garbage, and rubbish from all buildings, structures, places of business, plants, dwellings, stores, office buildings, fire houses, schools, hotels, municipal buildings, theaters, garages, public markets, restaurants, and other places of accumulation, all in accordance with the Contract as contained herein and CONTRACTOR shall make a complete and thorough collection and disposal thereof. The method of collection shall be by regular route pick-ups according to a fixed route and schedule as determined by the CONTRACTOR.

Solid Waste shall mean the same as defined in RCW 70.95.030 and RCW 81.77.010 (9); PROVIDED THAT the term "solid waste" shall include source separated recyclables and residentially generated recyclables. Agricultural processing waste shall be excluded from the definition of solid waste for the purposes of the Agreement only if such agricultural processing waste is transported directly to a site which is properly permitted and approved by all local, state, or federal agencies having jurisdiction over the site, including, but not necessarily limited to, local health departments, Department of Ecology, and the State Health Department. All such

transportation and disposal shall be in conformance with any applicable Solid Waste Comprehensive Plan.

Agricultural processing waste is defined as that waste which consists exclusively of the remainder and residue of processed fruit or vegetables. It is not any solid matter such as wood, packaging, paper products, plastics, cardboard, or other food products, rubbish or any other material which is included in the definition of solid waste in RCW 70.95.030, and is transported to a permitted facility for disposal.

9.02.080. Residential Services. Residential full service solid waste collection service shall include:

(a) Provision and collection of a 96-gallon capacity Cart, except that CONTRACTOR shall provide a 64-gallon capacity Cart upon written request from a customer. The charge for the 64-gallon capacity Cart shall be the same rate as charge for a 96-gallon capacity Cart.

(b) Repair and/or replacement of a Cart within forty-eight hours of notification by a customer. The customer shall be responsible for the cleanliness of the Cart.

(c) Collection and removal from each residential property all solid waste placed for collection in (1) the 96-gallon Cart, or 64-gallon Cart, if subscribed, (2) any extra Carts rented by the customer. In addition, any Extra Items left out of the cart will be picked up at no extra cost for the first 30 days after the commencement of this Agreement. After that initial 30-day period, Extra Items will still be picked up, but will be charged the rate specified in Appendix A.

(d) Collection of bundles, bags, boxes, cartons, shrubs, trees (less than six inches in diameter), small tree limbs, strips of boards or lumber and other solid waste, subject to the stipulation that said bundles shall not exceed five feet in the longest dimension and shall not exceed two feet in girth and shall not exceed sixty-five pounds per bundle. Collectively these items shall be defined as "Extra Items".

(e) Residential full service does not include the collection and disposal of truck tires or tractor tires. A residential customer is entitled to have passenger vehicle tires collected and disposed of from customer's private automobile only. In the event CONTRACTOR believes that a residential customer is attempting to dispose of quantities of passenger vehicle tires, in excess of what a typical residential unit would generate, CONTRACTOR shall notify CITY and if CITY can confirm that the customer is disposing of more tires than those removed from customer's private automobile, that customer shall thereafter be required to pay for tire disposal in accordance with the rate established in paragraph Appendix A of this Agreement.

(f) Heavy or Large Items. CONTRACTOR will, at a customer's request, collect items not subject to collection under standard residential service (items which exceed the standards of the preceding section) at an extra cost. Calls for service to collect these items shall be made at least one full business day in advance of the day specified for the additional collection service. CONTRACTOR shall determine the day for the additional collection service, but the service to the customer requiring it shall be made within five working days of receipt of the call. The site

of collection for this additional collection service shall be the same site as for full service solid waste collection.

9.02.090. Donation of Service for Community Event. CONTRACTOR will provide solid waste disposal for one (1) community event, held within the CITY limits, per calendar year. CONTRACTOR will donate up to fifteen (15) “three-hundred gallon” containers for said community event. CITY will determine which event donation of services will be applied to.

9.02.100. Points of Collection. Residential and Commercial collection shall be at curbside, or if curbside collection is impossible, at such point as designated by CONTRACTOR.

9.02.110. Recycling of all Collected Recyclable Materials. CONTRACTOR will recycle all items listed in Appendix B, that it collects under any Residential Recycling Program offered within the CITY. At such time that market conditions do not favor the recycling of specific commodities, CONTRACTOR and CITY will negotiate in good faith to determine which commodities shall be included or excluded in Appendix B as recyclable. CONTRACTOR shall supply a 30yd multi-compartment drop box for recycling for the purposes of collecting and hauling the recyclable material deposited by the residents of Waitsburg. In the instance that there is a net positive value from the sale of the commodities recycled, the CITY shall receive the proceeds.

9.02.120. Consideration to be Paid. For the full and faithful performance of the services required to be performed by the CONTRACTOR pursuant to the Agreement, CONTRACTOR shall be compensated in accordance with the schedule of rates and charge attached hereto as Appendix A or as amended during the term of this Contract as provided for in Section 34. Payment shall be made to CONTRACTOR by the CITY monthly for services rendered in the prior month, and all charges assessed for said prior month, pursuant to the provisions of the Contract, shall be deducted from such monthly payment. The customer count shall be based upon the record of active customers every month.

9.02.125. Due Dates. Garbage collection charges shall be due and payable monthly on or before the 20th day of each month after which the garbage collection service is received and shall be in an amount in accordance with section 9.02.520.

9.02.127. Solid Waste Penalty Revenue. Solid waste penalty revenue collected by the City of Waitsburg shall be deposited into the General Fund as outlined by Section 09.01.150C (Ord. No. 2006-900, January 2006).

9.02.128. Liens.

A. The city shall have a lien upon the property to which service was provided for all unpaid collection charges, plus interest and all costs and attorneys' fees incurred in filing a notice of lien and foreclosing upon the same.

B. The notice of lien may be recorded with the Walla Walla County Auditor and shall specify the charges, the period covered by the charges, and the legal description of the property to be encumbered by the lien.

C. The lien for unpaid garbage collection and disposal charges shall be foreclosed in the same manner as a labor lien and shall have priority over all liens and encumbrances filed subsequent to the filing of the notice of lien except for the lien of general taxes and local improvement assessments, whether levied prior to or subsequent thereto.

9.02.130. Escalation Clause. Beginning on the third year of the Contract (September 2013), the Contract shall be adjusted on the Anniversary Date each year in an amount not to exceed ninety percent (90%) of the July Consumer Price Index – All Urban Consumers – West Region, Size B/C standard reference base period 1996 = 100, as published by the United States Department of Labor, Bureau of Labor Statistics, hereinafter referred to as the “Adjustment Index”. The Contract adjustment on the first Anniversary Date will be computed using the Adjustment Index for July, 2012, as the base and the percentage increase will be determined between the base and the percentage increase as of July, 2013. Thereafter, the contract adjustment shall be based upon the percentage increase in the Adjustment Index from July to July.

9.02.140. Fuel Surcharge. In addition to the base collection rates set forth in this Agreement under Appendix A, the CONTRACTOR is hereby authorized to charge a “fuel surcharge” on all solid waste collection accounts, provided the surcharge is determined and used in accordance with the provisions hereinafter set forth. The Fuel Surcharge will be implemented in the instance that the Current Fuel Price exceeds the Base Fuel Price by 15% or more.

The following definitions apply to the use of the fuel surcharge:

i) Base Fuel Expense: the proportion of approved rates attributable to gross fuel expense, hereby fixed at 13.96%.

ii) Base Fuel Price: the average cost of diesel fuel used at the time of the 2011 rate authorization, hereby fixed at \$3.36.

iii) Current Fuel Price: the per gallon price for retail sales of “West Coast Number 2 Diesel Ultra-Low Sulfur” (0-15 PPM) for the most recent full month reported in the “Monthly Diesel Prices – Ultra-Low” index published by the Energy Information Administration of the US Government.

iv) Surcharge: the product of multiplying the base fuel expense by the percentage change between the base fuel price and current fuel price.

Section A. Surcharge Methodology: the Surcharge shall be calculated by subtracting the Base Fuel Price from the Current Fuel Price and converting the difference to a percentage of the Base Fuel Price; that percentage shall then be multiplied by the Base Fuel Expense and the resulting product shall constitute the Surcharge.

Section B. The CONTRACTOR shall submit to the CITY Treasurer a surcharge calculation worksheet (example provided in Exhibit D) by the 25<sup>th</sup> day of the month immediately preceding the months of August, October, December, February, April and June; the Surcharge shall be deemed approved and authorized unless written objection from the CITY is received by the

CONTRACTOR within seven (7) days of city's receipt of the worksheet. A Surcharge shall commence only on the first of each of the months named herein above, and shall continue in effect for a two month period, at which time the CONTRACTOR will submit a new Fuel Surcharge calculation to the CITY Treasurer based on the above described methodology (see Appendix D).

In addition the CONTRACTOR shall be allowed the following rate adjustments:

- i) Tipping Fee Increases. The CONTRACTOR shall be allowed to pass through to the CITY, and any customers billed direct by the CONTRACTOR, any increases or decreases in tipping fees. The CONTRACTOR shall provide the CITY with notice of any tip fee increase or decrease immediately upon the CONTRACTOR being officially notified of an adjustment in such fees but, in any event, not less than 45 days prior to the requested effective date of the pass through rate increase or decrease.
- ii) Taxes, Fees and Surcharges. The CONTRACTOR shall be allowed to pass through to the CITY, and any customers billed direct by the CONTRACTOR any increases or decreases in governmental taxes, fees and/or surcharges. The CONTRACTOR shall provide the CITY with notice of any increase or decrease immediately upon the CONTRACTOR being officially notified of an adjustment in such taxes, fees and/or surcharges.
- iii) CONTRACTOR may also apply to the CITY for rate adjustments to reflect any unforeseen increases in costs of operations which may arise during the term of the Contract. The CONTRACTOR shall submit a written request to adjust the rates no more than 120 days and not less than 60 days prior to the proposed effective date of the requested change. The CITY shall promptly consider such proposed rate change and shall not unreasonably withhold any rate increase based upon the occurrence of an unforeseen circumstance. If the CITY fails to approve such additional cost recovery, the CONTRACTOR may terminate the Contract upon one (1) year's notice.

9.02.150. Reports supplied by CONTRACTOR. In addition to any report required by law, the CONTRACTOR shall keep adequate, complete and current records showing the number and size of loads collected within the limits of the CITY and the approximate tonnage of solid waste hauled by CONTRACTOR to the disposal site. Such information shall be available to the CITY at the request of the CITY Mayor or his/her designee.

9.02.160. Volume Reduction. CONTRACTOR should use its best efforts to implement any economically and technically feasible volume reduction methods which are generally available to the public, and are common in the industry.

9.02.170. Mandatory Collection. Garbage and refuse collection shall be mandatory within the CITY limits of the CITY for all residences and businesses.

9.02.180. Collection Schedules. CONTRACTOR shall use its best efforts at all times to keep all persons from whom it is collecting garbage and refuse advised of the schedules for collection both day and time of pickup and shall further exert its best efforts to maintain actual collection in accordance with written schedules.

Collection of all residential and commercial accounts shall be required on a regularly scheduled basis, and shall be a minimum of once per week. Temporary Services shall be as needed, and according to the rate schedule as defined in Appendix A CONTRACTOR may, but is not required to, provide collection service on Saturdays, Sundays and holidays.

9.02.190. Adjustments of Service. In the event CONTRACTOR believes that a residential customer is generating quantities or types of solid waste in excess of the typical residential unit and for sufficient periods of time to indicate that the customer is using the residential solid waste services when, in fact, the customer should be using commercial solid waste service, CONTRACTOR shall notify CITY and if CITY confirms that the customer should be served by commercial solid waste services, that customer will then be supplied by CONTRACTOR with commercial services at commercial service rates.

9.02.200. Hours of Collection.

A. For commercial and industrial: Between the hours of 6:00 a.m. and 5:00 p.m., Monday through Friday. Where special circumstances or complaints received by the CITY indicates the necessity or desirability of an adjustment in the hours between which pickups may be made, the CITY may require such an adjustment to be made upon written notice to the CONTRACTOR. If the hours of operation create a complaint problem, the CONTRACTOR and the CITY will determine a solution that may result in a revision of the operating schedule.

B. For Residential Dwellings: Between the hours of 6:00 a.m. and 5:00 p.m., Monday through Friday. Any temporary change in the above hours shall be only upon approval by the CITY.

C. Missed Collections: Special pickup for missed collections, not the fault of the customer, shall be made by CONTRACTOR when ordered by CITY at no extra cost to CITY. In order to facilitate a determination of fault for missed collections, CONTRACTOR shall cause to have written down in a daily log, the addresses of all residences and businesses that failed to place garbage out for collection at the proper and regular time. Failure to so note such fact will create a presumption that the garbage was, in fact, placed out at its proper time and that CONTRACTOR was at fault for such missed pickup.

D. If CONTRACTOR fails to provide a special pickup within four days of notification by CITY through its authorized representative, CITY may cause to have the work done and the cost thereof charged to CONTRACTOR at the rate of twice the normal charge for such pickup, but not less than \$5.00 for any such pickup.

E. In the event of severe snow, ice, rainstorms or other acts of God which make solid waste collection impossible or dangerous, CONTRACTOR shall be allowed a grace period within which to return to full collection service without being considered in default under the terms of this contract. The determination of what constitutes a severe storm or other acts of God, which make solid waste collection impossible or dangerous, shall be made by the CITY after consultation with CONTRACTOR. CONTRACTOR shall be entitled to adjust its schedule as needed to provide coverage for solid waste collection services which would otherwise occur on national holidays. CONTRACTOR shall provide the CITY with notice, at least one week in advance, of any schedule adjustment.

9.02.210. Area to be Served. The area to be served shall be the entire area within the CITY limits of the CITY OF WAITSBURG as it now exists or as it is expanded by annexation during the term of this contract.

9.02.220. CITY Supervision. The work embraced in accordance with the provision of the Contract shall be under supervision of the CITY Mayor or his/her authorized representative.

9.02.230. Meaning of Terms. The meaning of terms and words as contained herein shall be governed by the common and customary understanding of the industry.

9.02.240. Requirements Re: Employees. The CONTRACTOR shall require all employees to be courteous at all times and not to use loud or profane language and to do their work as quietly as possible. Employees in collecting garbage, refuse and certain other waste shall follow the regular walks for pedestrians while on private property, returning to the street or alley after replacing the empty cans. Employees shall also replace all garbage cans and covers and close all gates which they have opened. All employees shall wear clean, presentable clothing. Employees shall not trespass or cross property to neighbor's premises nor meddle with property which does not concern them.

9.02.250. Loading. Extra care shall be taken in loading and transportation of garbage, refuse, and other waste so that none of the materials to be collected is left either on private property or on the streets or alleys. Any garbage, refuse or other waste left on the private property or on streets or alleys by the CONTRACTOR shall be cleaned up upon notice from the CITY Clerk/Treasurer.

The CONTRACTOR shall be responsible for the cleaning of all debris that was spilled or tracked on any street, alley, or public place by CONTRACTOR's equipment. If the CONTRACTOR fails to clean the same within 48 hours after notice is served by the CITY Clerk/Treasurer, the CITY Clerk/Treasurer may cause such streets to be cleaned and charge the costs to the CONTRACTOR.

9.02.260. Emergency Collections/Provisions. Adequate provisions acceptable to the CITY shall be made by the CONTRACTOR to provide special collections when garbage, refuse and other waste has not been collected during the regularly scheduled pickup. Special pickups for missed

collections shall be made by the CONTRACTOR when ordered by the CITY Clerk/Finance Director. For the purposes of this paragraph, "missed collection" shall not include collections not made for reasons beyond the control of the CONTRACTOR, such as "acts of God" temporary road surface conditions due to temporary utility work that obstructs all routes of collection, or unusual or inclement weather. Due to dangerous conditions as agreed to between the CITY Clerk/Treasurer for the CITY OF WAITSBURG and the Manager of CONTRACTOR or their designated representative, collection may be delayed.

9.02.270. Collection Equipment. In collecting garbage, refuse and other waste under this Contract, the CONTRACTOR shall use a water-tight, completely enclosed packer-type truck and/or Container units that are designed and manufactured specifically for the collection of garbage and refuse and are capable of servicing detachable Containers for servicing residential, commercial and industrial accounts. No leakage from either packer-type bodies or detachable containers shall be allowed. The number and type of collection vehicles furnished shall be sufficient for the collection of all garbage, refuse and other waste within the area to be served.

9.02.280. Method of Disposal. The CONTRACTOR shall deliver at its cost all garbage, refuse and other waste to a disposal site operated by CONTRACTOR as CONTRACTOR may determine, or such other site or sites as shall be approved by or meeting the solid waste disposal site requirements of the Department of Ecology. CONTRACTOR shall at all times keep the CITY advised of the disposal site or disposal sites being used by the CONTRACTOR.

9.02.290. Ownership of Equipment. All vehicles, facilities and property used in the performance of work under this Agreement shall be wholly owned and maintained by CONTRACTOR; provided, however, that CONTRACTOR may lease or rent equipment. Vehicles used for the collection and removal of solid waste shall be enclosed solid waste collection units, equipped with automatic loaders and packers or reasonably comparable equipment. Each truck shall also be equipped with brooms and shovels to clean up any spillage which may occur during the loading or transporting of garbage.

9.02.300. Painting and Cleaning of Equipment and Vehicles. Collection vehicles shall be painted and numbered and shall have the CONTRACTOR'S name and vehicle number printed in letters of a contrasting color at least 4 inches high, on each side of each vehicle and the number on the rear of each vehicle. No advertising shall be permitted other than the name of the CONTRACTOR. All vehicles shall be kept in a clean and sanitary condition.

9.02.310. Insurance. The CONTRACTOR shall provide and maintain in full force and effect during the entire term of the Contract or renewal thereof, a policy of CONTRACTOR'S Public Liability Insurance, naming the CITY as additional insured, providing for limits of not less than one million dollars (\$1,000,000.00) for all damages arising out of bodily injury to or death of one person and subject to that limit for each person; a total of not less than two million dollars (\$2,000,000.00) for all damages arising out of bodily injury to or death of two or more person in any one accident; and regular CONTRACTOR'S Property Damage Liability Insurance providing for a limit of not less than one million dollars (\$1,000,000.00) for all damage arising out of injury to or destruction of property in any one accident and subject to that limit per accident; a total limit of not less than two million dollars (\$2,000,000.00) for all damages arising out of injury to or destruction of property each year of the proposed contract commencing September 2nd, 2011.

All the foregoing insurance policies shall provide for thirty (30) days notice to the CITY of any change, cancellation or lapse of such policy. Proof of coverage for these policies must be submitted to the CITY by the CONTRACTOR.

9.02.320. Indemnification. The CONTRACTOR shall indemnify and save the CITY harmless from and against any and all loss, damage, actions, claims, suits, judgments and liability in connection with the loss of life, personal injury and/or damage to property arising from or out of any occurrence, conduct or operation of or by the CONTRACTOR. CONTRACTOR shall also pay all costs, expenses and reasonable attorney fees that may be incurred or paid by the CITY in enforcing any and/or all terms and covenants hereunder.

9.02.330. Fees, Taxes and Licenses. The CONTRACTOR shall be required to pay all taxes, licenses and other such fees required by applicable federal, state or local rules and regulations and upon request of the CITY Mayor shall provide proof of the payment of the same to the CITY.

9.02.340. CONTRACTOR Assistance. CONTRACTOR shall, upon request and without cost, make available either to the CITY Mayor and/or the property owner technical assistance in respect to all buildings and structures within the CITY limits of the CITY OF WAITSBURG in respect to design and location of garbage and/or refuse container enclosures.

9.02.350. CITY Assistance and Reporting. The CITY shall, upon request and without cost, make available to CONTRACTOR all information pertaining to current billing records and information regarding quantity and container sizes for all residential, commercial, and industrial customers.

9.02.360. Workmen. ALL workmen employed shall be competent and skilled in the performance of the work to which they may be assigned. Failure or delay in the performance of this contract due to the CONTRACTOR'S inability to obtain workmen of the number and skill required shall constitute a default of the contract.

9.02.370. Company Name. CONTRACTOR shall not use a firm name containing the word "CITY" or any words implying municipal ownership.

9.02.380. Affirmative Action Plan. CONTRACTOR shall at all times during the term of this Contract engage in employment practices in a manner whereby equal employment opportunity is observed and practiced.

The CONTRACTOR shall not refuse to hire, and shall not discriminate against any person hired in terms or conditions of employment because of such person's age, sex, marital status, race, creed, color, national origin, veteran status including Vietnam era Veteran, or handicap, unless a bona fide job requirement exists.

9.02.390. Modification. This Agreement may only be modified as provided in this paragraph. The parties may agree to modification of any of the terms hereof, provided that such agreement must be in writing and signed by appropriate representatives of each party.

9.02.400. Security. The CONTRACTOR shall secure a Ten Thousand Dollar (\$10,000.00) performance bond from a surety authorized to transact business with the State of Washington for

the benefit of and in a form acceptable to the CITY. In lieu of a performance bond, the CONTRACTOR may submit an irrevocable Letter of Credit, or a Cash Account or Certificate of Deposit (collectively herein defined as "Security Instrument"), in a form acceptable to the CITY, from a banking institution, in the same amount. Said bond or Security Instrument approved by the CITY shall provide assurance that the CONTRACTOR shall at all times, fully and faithfully perform all conditions of this Contract and shall promptly pay all just claims for any labor or service rendered or equipment or material used in the performance of this Contract. In the event that a Security Instrument produces earned interest, any and all such interest generated shall be under the ownership and control of the CONTRACTOR.

Section A. First Year Recycling Costs. The City of Waitsburg intends to use the interest proceeds from the 2002 contract to buy down recycling costs in the first year of the new contract. Interest will be paid to the City within 10 days of the maturity of the 2002 contract certificate of deposit. Contractor will bill the City for recycling services (Drop Box hauls) within 30 days after the start of the new contract in the second year once the total amount of recycling costs is known to City and Contractor.

9.02.410. Severability. Should any part or provision of this Agreement be found to be illegal or in conflict with any applicable statute or regulation, the validity of the remaining parts or provisions hereof shall not be affected thereby.

9.02.420. Holidays. CONTRACTOR shall designate which holidays the firm will observe and indicate to the MAYOR the schedule they will work if the holiday falls on a regular collection day.

CONTRACTOR will provide regular Residential and Commercial collection services on all weekdays, Monday through Friday inclusive, regardless of any Holidays that may be observed. Residential and Commercial customers will be responsible for making available such refuse Containers for collection by CONTRACTOR's vehicles. Drop-box collection service will not be performed on the following Holidays;

New Year's Day, January 1st  
Memorial Day  
Fourth of July  
Labor Day  
Thanksgiving Day  
Christmas

9.02.430. Improvements to CITY'S Alleys, Etc. The CITY reserves the right to construct any improvement or to permit any such construction in any street or alley in such manner as the CITY Council or Planning Commission may direct, which may have the effect for a time of preventing the CONTRACTOR from traveling its accustomed route or routes for collection. The CONTRACTOR shall make every reasonable effort to collect all routes, but shall not be penalized for failure to collect a customer or route if the City's actions prevent CONTRACTOR from doing so in a reasonable manner.

9.02.440. Cart, Container, Etc. The CONTRACTOR shall provide one (1) or more 96 gallon Carts for each residential customer. The cost for providing each Cart shall be included in

the monthly rate for residential service. For commercial and industrial accounts, special Containers compatible with CONTRACTOR's equipment shall be supplied by the CONTRACTOR. The applicable rates for such Containers are specified in this Agreement.

Section A. Extra Cart Pick Up. In the event a customer no longer wishes to have an extra cart, the CONTRACTOR, at the City's request, will pick up those carts at their earliest convenience at the rate specified in Appendix A. CONTRACTOR will not charge the rates specified in Appendix A, if a customer is subject to the following exemptions;

- i. Customers who have had their extra carts for longer than twelve (12) consecutive months
- ii. Customers who have permanently moved from their property.

Customers will have 30 days from the commencement of this Agreement to have their extra carts picked up at no charge. After that initial 30-day period, charges will apply at the rate specified in Appendix A, subject to the exemptions listed above in Section A.

Section B. Temporary Vacations. When a property is vacated temporarily, in the case of rental properties, extended periods of time away from residence, etc., and the customer wishes to have service temporarily suspended, all carts at the vacated property will be picked up, and the rate specified in Appendix A will apply.

9.02.450. Default. If CONTRACTOR shall abandon or breach its exclusive Solid, Non-Hazardous Waste Hauling Contract or fail to fully and promptly comply with all of its provisions or shall fail to give reason satisfactory to the CITY for noncompliance, the CITY may then declare the CONTRACTOR to be in default of this Contract and notify the CONTRACTOR of such default and shall provide CONTRACTOR with thirty (30) days to cure such default and failing such action by CONTRACTOR, the CITY may after said thirty (30) day period provide notice of termination to the CONTRACTOR and its surety on its performance bond. Upon receipt of any such notice, CONTRACTOR agrees that it will promptly discontinue the work, whereupon the surety may, at its option, to be exercised within ten (10) days from such written notice, assume the work which the CITY has ordered discontinued and proceed to perform same, at its sole cost and expense, in compliance with the terms and conditions of the Contract, and all documents incorporated herein. Pending consideration by the surety of said option to assume the work, the CITY may take possession of all CONTRACTOR'S equipment, vehicles and facilities and employ such force as it may deem advisable to continue the work; and the cost of all labor and materials necessary for such work shall be paid by the CITY out of the monies due or to become due the CONTRACTOR, if any, or otherwise charge same to the CONTRACTOR in full.

In the event that the surety fails to exercise its option within the ten (10) day period, the CITY may complete the work or any part thereof, either by day labor, or by reletting the same, and the CITY shall have the right to take possession of and use any of the vehicles, equipment, facilities and property of every kind and nature provided by the CONTRACTOR for the work and to procure other vehicles, equipment and facilities necessary for the completion of the same, and to charge same to the CONTRACTOR and/or its surety, together with all reasonable costs incidental thereto. The CITY shall be entitled to recover from the CONTRACTOR and its surety

as damages all expenses incurred, including reasonable attorneys' fees, together with such additional sums as may be necessary to complete the work.

9.02.460. CITY Ordinances. All work to be performed under this Contract shall be in accordance with the conditions and provisions of WAITSBURG Municipal Code Chapter 2 of Title 9 and any amendments thereof, unless the terms of this Contract clearly provide otherwise.

9.02.470. State Law Regarding Annexation. Attention is called to RCW 35.13.1280 pertaining to the rights of franchise or permit holders for garbage collections and/or disposal within areas which may be annexed into the CITY OF WAITSBURG and the responsibility of the franchise holder to provide service. The CITY will immediately fulfill its requirements as provided for in RCW 35.13.1280 with respect to any annexation by the CITY OF WAITSBURG during the term of this contract.

9.02.480. Compliance with Laws. The CONTRACTOR shall, in the performance of the Agreement, comply with all federal, state, county, and CITY laws and regulations.

9.02.490. Billing and Collection. It is agreed between the parties that except as provided herein for special services provided by CONTRACTOR, CITY shall do all billing and collection for residential and commercial services rendered to properties within CITY and served under this Agreement. CONTRACTOR will bill directly for any roll-off or temporary Container services.

For basic service fees, CONTRACTOR shall be paid in accordance with this Agreement, unit costs multiplied by the total number of units billed by City. CONTRACTOR shall invoice CITY, and CITY shall pay CONTRACTOR the amounts due under the terms of this Agreement on or before the 25<sup>th</sup> day of each month for services rendered during the preceding month.

In the event CITY or CONTRACTOR disputes any portion of the billing, CITY shall pay to CONTRACTOR, in accordance with this section, the undisputed portion of the billing. Any disputed portion of the billing shall be presented to the other party for resolution within 10 days of the date payment of the undisputed portion is due. Failure to notify the other party of a disputed portion of the billing shall constitute a waiver of CITY or CONTRACTOR's right to dispute the bill.

All charges and liquidated damages assessed against CONTRACTOR in accordance with the provisions of this Agreement shall be deducted from the amount due CONTRACTOR for the billing period immediately following the billing period in which the event occurred giving rise to the charge or liquidated damages. If the charge or liquidated damage amount is not deducted as herein provided, said claim is waived by City.

CONTRACTOR and/or CITY shall have the right to terminate solid waste service to a customer who is delinquent. CITY shall advise CONTRACTOR within five days that the account is delinquent and it is to no longer be served. Upon receipt of said notice, CONTRACTOR shall immediately cease serving the property.

9.02.495. Rules and regulations-City power to determine. The city shall have the power, from time to time, in an appropriate manner to set forth and determine rules and regulations and rates,

duties and responsibilities, and such other matters as may be necessary in the discretion of its city council for the proper execution of this chapter.

9.02.500. Complaints. CITY shall develop a citizen complaint procedure with input from CONTRACTOR. CONTRACTOR shall promptly respond to all complaints received by the CITY pursuant to the complaint procedure and communicated to CONTRACTOR. CONTRACTOR shall provide documentation to the CITY that the complaint has been adequately addressed to the satisfaction of CITY.

9.02.510. Notices. All correspondence and/or notices required or referenced herein shall be directed as follows;

CITY: CITY of WAITSBURG  
PO Box 35  
WAITSBURG, WA 99361

Phone: (509) 337-6371  
Fax: (509) 337-8089

CONTRACTOR: BASIN DISPOSAL, INC.  
Attn: Darrick Dietrich  
2021 N. Commercial Avenue  
PO Box 3850  
Pasco, WA 99302-3850

Phone: (509) 547-2476  
Fax: (509) 547-8617

9.02.520. Appendix A: Rates, Etc.

1. Rates for Refuse Collection

- A) Residential Service: For each occupied residence or separate unit thereof, the charge shall be as listed below per month for weekly solid waste collection services.
  - i) Solid Waste collection service shall include;
- B) Provision and collection of a 96-gallon capacity Cart, unless otherwise requested as per section 2 (a) of this Agreement. CONTRACTOR shall provide a 64-gallon capacity Cart upon written request from a customer. The charge for the 64-gallon capacity Cart shall be the same rate as charge for a 96-gallon capacity Cart.

a) Rates:

|                                 |               |
|---------------------------------|---------------|
| 64-gallon Cart                  | \$15.50/month |
| 96-gallon Cart                  | \$15.50/month |
| Each Additional 96-gal Cart     | \$4.00/month  |
| Bring-In Fee of Additional Cart | \$17.50/each  |

- b) CONTRACTOR shall be responsible for repair and/or replacement of such CONTRACTOR provided Carts within forty-eight (48) hours of notification by customer if damage to cart is through no fault of the customer. Customer shall be responsible for cleanliness of Cart.
- ii) Return Trip Charge – If in the instance a Residential Cart was not placed out for service prior to 6:00am, or was not placed in a place accessible to the Contractor during its regular collection route, and the Customer requests a special Return Trip to empty their Cart, a charge of \$9.85 will be assessed.
- C) Commercial Rates: Each commercial establishment within the CITY limits which is open for business shall pay a monthly rate as per the schedule below. CONTRACTOR shall provide a 64-gallon capacity Cart upon written request from a customer. The charge for the 64-gallon capacity Cart shall be the same rate as charge for one 96-gallon capacity Cart.
- a) Rates:
- |   |                 |
|---|-----------------|
| (1) 64-gallon Cart                        | \$19.50/month   |
| (1) 96-gallon Cart                        | \$19.50/month   |
| (2) 96-gallon Carts                       | \$36.00/month   |
| (3) 96-gallon Carts                       | \$52.00/month   |
| (4) 96-gallon Carts                       | \$68.00/month   |
| (5) 96-gallon Carts                       | \$84.00/month   |
| <br>                                      |                 |
| (1) 300-gallon Container                  | \$90.00/month   |
| (2) 300-gallon Container                  | \$172.00/month  |
| <br>                                      |                 |
| Bring-In Fee of Additional Cart/Container | \$17.50/each    |
| <br>                                      |                 |
| Extra Yards                               | \$8.15/per Yard |
- D) The collection and removal of solid waste from each commercial property must be placed for collection in a 300-gallon Container, or 96-gallon Cart. Waste items too large or bulky to be reasonably placed into the automated Containers will be charged at the Extra Yard rate.
- i) Return Trip Charge – If in the instance a Commercial Cart or Container was not placed out for service prior to 6:00am, or was not placed in a place accessible to the Contractor during its regular collection route, and the Customer requests a special Return Trip to empty their Cart, a charge of \$9.85 will be assessed.

E. Special/Temporary Route per pickup

Special pickups shall be defined as those collections that are not part of a commercial customer's regularly scheduled collection service. Special pickups will be charged at the specified rate listed below in addition to the Return Trip Charge of \$9.85. Temporary Route pick-ups shall be defined as temporary service that requires the delivery of a Container to said customer, with one or more collections required. Additionally, the rates herein defined shall apply to those customers requesting collection service outside of the scope of Regular Route service. Such

Special/Temporary service shall become defined as Regular Route service beginning on the sixtieth (60) day of service.

|                          |                |
|--------------------------|----------------|
| (1) 64-gallon Cart       | \$4.56/pickup  |
| (1) 96-gallon Cart       | \$4.56/pickup  |
| (2) 96-gallon Carts      | \$8.37/pickup  |
| (3) 96-gallon Carts      | \$12.07/pickup |
| (4) 96-gallon Carts      | \$15.76/pickup |
| (5) 96-gallon Carts      | \$19.46/pickup |
| (1) 300-gallon Container | \$24.85/pickup |
| (2) 300-gallon Container | \$39.78/pickup |

|                                  |                    |
|----------------------------------|--------------------|
| Temporary Container Delivery Fee | \$77.61            |
| 300-gallon Temporary Container   | \$24.85/per pickup |
| Temporary Rent / Day             | \$3.50             |

Temporary rent shall not apply on the day of delivery.

F. Roll-off-Loose yards

Roll-Off Loose yards shall be defined as drop boxes that are not subject to compaction forces. Customers requesting temporary drop box service shall be defined as “Temporary Haul” customers. Temporary Haul customers shall be defined as those requesting service for a period of sixty (60) days or less. Customers that are on permanent drop box service, or customers retaining drop box service for a period of over sixty (60) days, shall be defined as “Permanent Haul” customers. Drop-box Containers shall be offered in the following sizes, 11 cubic yards, 20 cubic yards, 30 cubic yards, and 40 cubic yards.

|                                  |                     |
|----------------------------------|---------------------|
| Delivery Fee                     | \$166.52            |
| Temporary Rent / Day             | \$8.20              |
| Disposal Fee / per ton           | \$41.43             |
| 11 Yard Haul Fee, per collection | \$245.00 + dump fee |
| 20 Yard Haul Fee, per collection | \$245.00 + dump fee |
| 30 Yard Haul Fee, per collection | \$245.00 + dump fee |
| 40 Yard Haul Fee, per collection | \$245.00 + dump fee |

Dump fees on Roll-Off Containers are in addition to the rates shown above. There shall be a minimum of one collection per month for Permanent Haul customers; provided that if less than one collection shall occur within a month’s time, the customer shall pay for one collection in any case. Temporary rent shall not apply on the day of delivery.

1.) Special Services: It is anticipated that from time to time special services may be required by residential or commercial customers, in which case CONTRACTOR shall make a reasonable effort to provide same at the following rates.

- i) \$75.00 per hour for a truck and one person crew for collection beyond the scope of the regular service provided for herein;
- ii) Roll-Out: CONTRACTOR will provide Roll-Out services for disabled persons at the request of the CITY. Eligibility for such service will mutually be determined by the CITY and CONTRACTOR based on the status of having difficulty handling or maneuvering Cart due to being disabled.
- iii) Locking Container: Locking Containers shall be provided upon the request of the customer. Such Locking Container will be charged a onetime preparation fee of \$50.00.
- iv) Bulky Items: Bulky items such as mattresses, couches, recliners, dressers tables and other items will be charged depending on size, ranging from \$5.00 per item to \$15.00 per item. If there are multiple pieces to be picked up at one location bulky items may be charged at the Extra Yard rate as defined in C) (a) above.
- v) Appliances: Refrigerated appliances such as refrigerators, freezers, air conditioner units, etc. will be picked up by request at a rate of \$35.00 each. All other Non-Refrigerated appliances such as washers, dryers, water heaters, stoves, dishwashers etc., will be picked up by request at the rate of \$15.00.
- vi) Each Extra Item (can, bag, box) will be charged at \$4.50 per 32-gallon can equivalent.
- vii) Steam Clean Charge: The Customer shall be charged according to the following schedule for each request of steam cleaning the following Containers. The steam cleaning charge is in addition to the normal delivery or haul charge necessary to move the Container, unless otherwise noted.

- (a) Cart (64 or 96 gallon) – No Charge
- (b) Container - \$30.00
- (c) Drop Box - \$75.00

viii) Tires: The following fees apply to collection and disposal of tires:

- (a) Automobile Tires - \$3.05
- (b) Truck Tires - \$7.80
- (c) Tractor Tires – Beginning at \$16.70 and above depending on size.

ix) Cart/Container Replacement: In the event a Cart or Container is damaged due to customer neglect, a replacement fee will be assessed as per schedule below.

- (a) Cart Replacement Cost: \$65.00
- (b) Container Replacement Cost: \$300.00

G. City Administrative Fee. The City of Waitsburg shall assess an administrative fee of 12.5% above each charge incurred from CONTRACTOR.

#### 9.02.530. Appendix B: Recycling

List of Items to be recycled within Residential Recycling Program for the

CITY OF WAITSBURG.

Aluminum Cans

Tin Cans

Newspaper

Cardboard

Mixed Paper

9.02.540 Appendix C: Handling of Household Generated Hazardous Waste

Items to be excluded from the regular waste stream include;

1. Car Batteries
2. Motor and Hydraulic Oil
3. Antifreeze
4. Gasoline and other fuels
5. Asbestos
6. Paints
7. Medical Waste and loose syringes
8. Explosives or flammable materials

9.02.550 Appendix D: Fuel Surcharge Methodology

Billing Period:

\_\_\_\_\_

Line  
No.

**1 Base Fuel Expense**

|   |  |            |                  |
|---|--|------------|------------------|
| 1 | <u>Base Fuel Expense</u>                     |            | = 13.96% (Fixed) |
| 2 |  |            |                  |
| 3 | <b>2 Percentage Increase in Cost of Fuel</b> |            |                  |
| 4 |  |            |                  |
| 5 | <u>Current Fuel Price</u>                    | \$ _____   |                  |
|   |  | (Variable) |                  |
| 6 | Minus <u>Base Fuel Price</u>                 | - \$3.36   |                  |
|   |  | (Fixed)    |                  |
| 7 | Equals Fuel Price Difference                 | = \$ _____ |                  |
|   |  | (Variable) |                  |
| 8 | Divided By <u>Base Fuel Price</u> (Line 6)   | ÷ \$3.36   |                  |

